

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA**

AT BECKLEY

EUGENE LANE

Plaintiff,

v.

CIVIL ACTION NO. 5:19-cv-00132

OFFICER JAMES MCCOY,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending is whether Plaintiff failed to prosecute this civil action. This action was previously referred to United States Magistrate Judge Omar J. Aboulhosn for submission of proposed findings and a recommendation (“PF&R”). Magistrate Judge Aboulhosn filed his PF&R on April 21, 2020. Magistrate Judge Aboulhosn recommended that the Court dismiss the amended complaint without prejudice, deny the pending motion for summary judgment as moot, and dismiss the matter from the Court’s docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (emphasis added) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made*.”). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (noting parties may not typically “appeal a

magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on May 8, 2020. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 32**], **DENIES** the Motion for Summary Judgment [**Doc. 21**] as moot, **DISMISSES** the Amended Complaint [**Doc. 5**], and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTERED: June 23, 2020

 
Frank W. Volk
United States District Judge